S.B. CRIMINAL REVISION PETITION NO. 416/2007
Krishan Lal Vs. State of Rajasthan & Ors.

DATE OF ORDER : 6.12.2007

HON'BLE MR. GOVIND MATHUR, J.

Mr. N.L. Joshi, for the petitioner.
Mr. V.R. Mehta, Public Prosecutor.
Mr. Mridul Jain, for the respondents.

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This revision petition is preferred to challenge the order dated 25.4.2007 passed by the learned Addl. Sessions Judge, Raisinghnagar discharging the respondents No.2 to 6 from offences under Section 147, 148, 149 and 324 IPC.

In brief facts of the case are that on basis of the statements given by the complainant/injured a case was registered against the respondents Sohan Lal, Gopal, Krishanlal and and Indra Raj for the offences under Section 341, 323/34 IPC. After regular investigation the police submitted charge-sheet only against Sohan Lal, Gopal, Indra Raj and Kashi Ram. The petitioner then preferred an application under Section 190 Cr.P.C. to take cognizance against respondent Kishan Lal also. At the time of framing of charges learned trial court by the order impugned discharged all the respondents from the offences alleged.

While assailing validity of the order aforesaid the contention of learned counsel for the petitioner is that the trial court while considering the issue for framing the charges has taken into consideration not only the evidence available on record but also defence advanced and meticulously, quite in length appreciated the material

available on record, whereas the requirement of law is that while framing the charge the court should see the material available to presume prima facie commission of the offence to proceed with trial.

I have heard learned counsel for the parties and also perused the record available. From the first information report as well as from the police report and the documents annexed thereto it is apparent that a prima facie case is available for drawing presumption of commission of offence alleged and to proceed with trial. Thus,. The order of discharge by appreciating the evidence available on record deserves to be quashed.

Accordingly, the order impugned dated 25.4.2007 is quashed with a direction to learned Addl. Sessions Judge, Raisinghnagar to consider afresh the polcie record and the material placed with that for framing charges against the accused persons as per the provision of Section 190 Cr.P.C.

(GOVIND MATHUR),J.

J.G.